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UNITED NATIONS COMMON SYSTEM

Comments by the Coordinating Committee for Independent Staff Unions and Associations of the United Nations System

Note by the Secretary-General

The Secretary-General transmits herewith for consideration by the Fifth Committee a document submitted by the Coordinating Committee for Independent Staff Unions and Associations of the United Nations System (CCISUA).

Annex

SECURITY AND INDEPENDENCE OF THE INTERNATIONAL CIVIL SERVICE

1. From 1 October 1992 to 30 September 1993 20 staff members of the United Nations were killed in service. Since 1988, over 260 United Nations employees have been detained, imprisoned or are missing. Several others were attacked, injured, kidnapped, abused and harassed. As of 1 October 1993, 58 of those were still in custody or unaccounted for. Furthermore, over the past year, five staff members have been held hostage. While they were eventually released, the growing number of colleagues whose life, health and freedom is at stake is of high concern to the staff (see appendices I and II for details).

2. Article 105 of the Charter of the United Nations determines that "the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes". According to the Charter, "Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization." The task of making recommendations with a view of determining details of the application of these provisions was given to the General Assembly.

3. Similarly, the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, the Agreement on the Privileges and Immunities of the International Atomic Energy Agency and the United Nations Development Programme standard basic assistance agreements were established to provide a framework for United Nations staff members to conduct their work without fear of reprisals or threats to their safety, freedom and life.

4. Furthermore, as early as 1949, the International Court of Justice specifically addressed the case of an international civil servant killed in the course of duty. According to the Court "[to] ensure the independence of the agent, and, consequently the independent action of the Organization itself, it is essential that in performing his duties he need not have to rely on any other protection than that of the Organization ..." In summary, staff members should know that in the performance of their duties they are "under the protection of the Organization". 1/ This decision assigns a clear responsibility to the United Nations and its organs such as the Secretariat to protect its staff from physical harm while on duty.

5. The staff is pleased to see that the Security Council has addressed this issue over the past year, expressing grave concern at the increasing number of attacks against persons engaged in United Nations operations and making proposals to close gaps in the existing security system. Furthermore, the Council expressed outrage at the loss of life caused by attacks launched against personnel of the United Nations Operation in Somalia. The staff supports the initiatives by the Security Council to seek a mechanism for the administration of justice if nations are unwilling or unable to discharge their responsibilities in this respect. 2/

6. In the above context, the staff endorses the initiative by New Zealand to propose a draft convention on responsibility for attacks on United Nations personnel which was presented to the Sixth Committee of the General Assembly in October 1993 and the strong stand taken by the Permanent Representative of New Zealand and others on this matter on previous occasions (see A/C.6/48/L.2). The killing of United Kingdom national Sean Devereux on 2 January 1993 in Somalia perhaps best illustrates the complexity of bringing to justice the forces responsible for such acts. The slaying of the United Nations Children's Fund (UNICEF) aid worker shocked the international relief community and was widely held up as an example of the continuing dangers aid workers face in performing their duty. Yet, in spite of the fact that the suspect has been identified, the inability to apprehend him calls for improved international measures to bring to justice those responsible for attacks against United Nations personnel.

7. While safety of staff on peace-keeping or humanitarian missions has become an even greater concern over the past year, the arrest and detention of United Nations staff has often been neglected by the official organs of the Organization. While some actions were taken leading to the release of several hostages from captivity, several Member States continue to ignore Article 105 of the Charter. Thus, our colleague Alec Collett, who was abducted over eight years ago, is still unaccounted for. So far, the General Assembly has failed to put adequate pressure on Member States that ignore Article 105 or which refuse to act against its violation by political forces within their countries. The issue of hostages taken in the Middle East will not be resolved until the fate of our colleague Alec Collett and other abducted colleagues has been accounted for.

8. It is hoped that recent political developments in that region will lead to the release of our colleagues working for the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in the territories occupied by Israel. We understand that many prisoners are being released by the Israeli authorities so that the list annexed to the present document may be out of date.

9. The Secretary-General himself has been consistently outspoken on the issue of staff security. In a speech delivered to the Fifth Committee in November 1992, he declared that "the security and safety of United Nations personnel are of greatest concern" and called for staff safety to be of utmost consideration. 3/ Furthermore, in his report on the work of the Organization to the forty-eighth session of the General Assembly he called for Governments and other parties to conflict to "respect their obligations under international law to ensure the secure access of relief personnel and supplies to the victims of humanitarian emergencies." 4/

10. The staff welcomes the appointment of the Under-Secretary-General for Administration and Management as Security Coordinator for the United Nations system. In this regard, however, the staff reiterates the need for a full-time security coordinator in the Office of the Secretary-General. The newly appointed Security Coordinator, deploring the rising number of deaths and injuries among staff members on mission, has stressed that much more must be done in terms of awareness and planning to reduce the risk for staff on peace-keeping missions. 5/ The staff hopes that urgent measures will be taken in this respect. On the occasion of Staff Day on 10 September 1993, the Security

Coordinator honoured staff members who had made the ultimate sacrifice of their lives in a special ceremony.

11. In spite of the positive signals received by the staff and an overall improvement of staff-management relations in discussing the issues of concern, many problems remain. We recognize that the United Nations administration, overwhelmed by the excessive demand on its limited resources, often seemed ill-prepared to react as swiftly as necessary to the multiplication and expansion of peace-keeping and humanitarian operations over the past year, which presented new challenges to the Organization.

12. Problems occurred not only through direct attacks against United Nations staff, but also through an increased number of accidents: in the period from September 1992 to May 1993, at least 12 helicopters and some fixed-wing aircraft crashed. 3/ The staff is concerned about a growing number of missions where logistical support is inadequate or where the safety of staff is not sufficiently taken into consideration when securing the services of private contractors. The latter is the more severe as United Nations staff now serve in areas where active conflicts take place.

13. The response by the United Nations administration and Medical Service to staff members injured while on mission was perceived to be slow and insufficient in several cases. Several staff members reported to the Committee on the Security and Independence of the International Civil Service that they had been left with inadequate medical care in difficult duty stations for extended periods of time. Besides, the Medical Service had not provided the administrative support needed in these situations such as initiating a swift transfer to better facilities or a visit by family members. This has exacerbated their trauma.

14. For many formerly detained staff members, suffering is not over with their release from illegal detention. They then face a bureaucratic nightmare and up-hill battle with the United Nations administration regarding their reinstatement into service or their entitlement to adequate compensation. Some of our colleagues have had to struggle for many years even after their grievances had already been acknowledged by the appropriate appeals bodies within the Organization. Over the past several years the Committee on the Security and Independence of the International Civil Service has heard several personal accounts of staff members who have been denied their appropriate reintegration into United Nations service as well as adequate compensation for their suffering. Some staff members were forced to hire outside lawyers in order to be heard by the administration.

15. For instance, in a recent case heard by the Committee, a staff member who had been forced out of his position within a regional commission as a result of pressure by his Government has been left without a post for nine years since his transfer to New York. In spite of the fact that the Secretary-General accepted a decision by the Joint Appeals Board to place him adequately within the Secretariat and that he volunteered to serve on peace-keeping missions, he is now being forced out of the Organization. The staff deeply deplores this lack of sensitivity on the part of the administration towards a staff member who had already been harassed for political reasons.

16. The above-cited cases call for an improved and transparent personnel policy towards staff members arrested, detained or abducted. Rather than dealing with every case on an ad hoc basis, a unified procedure should be introduced by the Office of Human Resources Management that would automatically apply to such cases. In this context, the staff recommends that posts of staff members who are being illegally detained should be blocked until their return, their salary and other entitlements should continue to be paid and their families should be given all possible assistance including legal advice and protection from harassment. Adequate provisions are also necessary for spouses and family members of United Nations staff killed in the line of duty. The position of locally recruited staff continues to be particularly worrisome in this respect as their status as international civil servants is often not recognized or respected by host countries. A considerable number of locally recruited staff of United Nations offices, humanitarian and peace-keeping missions are risking their life and freedom while serving the Organization.

17. In recent years the Staff Union has sought to contribute to establish a truly independent international civil service. Thus, it has fought to put an end to the system of "pseudo-secondment" and welcomes the changes in the United Nations personnel policy in this respect. The staff representatives are appalled that individual Member States still seek to preserve some features of this practice condemned by the General Assembly and the Administrative Tribunal. 6/ Thus, some Member States continue to exert pressure on the United Nations to fill specific posts externally by their nominees and to claim certain posts as their exclusive preserve, contrary to established procedures of promotion and placement and in direct violation of the Charter. The staff representatives deplore such moves, which reflect a disregard for the exclusively international character of the Secretariat and which undermine the integrity and independence of the international civil service to the detriment of all Member States.

18. Unfortunately, in the past, staff members who did not comply with certain policies of their respective countries or who refused to turn in large portions of their salaries to their Governments were subject to retribution such as denial of passports and other hardships. Others suffered retribution for using the legitimate appeals machinery in the Secretariat. While some past cases have been solved in favour of the staff involved, the staff representatives urge the General Assembly to stay alert with regard to any such violations of the independence of the staff. As of this date, a staff member of the International Atomic Energy Agency (IAEA) from China has been prevented from leaving his home country and resuming his duties at IAEA since 1989. In this connection, the staff wishes to reiterate that all staff members irrespective of nationalities are international civil servants whose rights have to be recognized and respected by Member States in order to enable them to perform their duties at the optimum level.

19. The staff representatives reconfirm their opposition to any subsidies given to staff by their Governments in violation of relevant General Assembly resolutions as well as unequivocal directives by the Secretary-General and the principle of "equal pay for equal work".

20. A number of countries continue to impose travel restrictions on United Nations staff members. Such restrictions are in violation of international agreements between host countries and the Organization. Over the past year, the host country for the United Nations Headquarters has lifted travel restrictions on private travel of staff members who are nationals of particular countries. However, such improvements should not be based on recent changes in bilateral relations, but in compliance with the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations. Travel restrictions remain in effect for some countries, not withstanding repeated notes verbales from the Secretary-General objecting to this practice.

21. In summary, the staff representatives most strongly urge the administration to develop policies more consistent with the Charter, the Universal Declaration of Human Rights, the International Labour Organization Labour Conventions and other relevant internationally accepted rights including legal instruments, vis-à-vis all staff members who have been illegally detained, or have suffered other abuses where Governments or militias have been implicated. Strategies concerning safety of staff on peace-keeping and humanitarian missions, a quicker and more compassionate response to the needs of staff members injured on duty, as well as a more humanitarian treatment of staff returning from unjustified detention and abduction or suffering from undue pressure exerted by their Governments, are needed.

22. The Staff Union representatives would welcome a more effective monitoring of violations and actions to correct these by the General Assembly, as well as intensive efforts to prevent future abuses. The establishment of a medical team to visit all staff now illegally detained should be on line before the end of the current session.

23. The staff asks the General Assembly to monitor more closely violations of Articles 100 and 105 of the Charter by Member States or forces within these States. Ultimately, Member States are responsible for adhering to the international agreements and conventions they promised to respect upon joining the United Nations.

24. The staff recommends to the Secretary-General to raise awareness among Member States about violations of Articles 100 and 105. In this context it suggests to reactivate and revitalize the Secretary-General's Task Force on the Security and Independence of the International Civil Service.

25. The expansion of peace-keeping and humanitarian missions reflects the will of the States Members of the United Nations. In requesting these missions, however, they have to ensure that the United Nations has sufficient human and financial resources as well as an infrastructure realistically providing the Organization with the means to undertake such missions. These resources and prerequisites have to be in place at the start of any mission. If responsibility is given to the Organization without realistic objectives and sufficient means, the safety of staff is at stake.

Notes

1/ "Reparations for injuries suffered in the service of the United Nations", Advisory Opinion of 11 April 1949, I.C.J. Reports, 1949, pp. 182-184. The Court made reference to Article 100 of the Charter, concluding that the independence of a staff member might be compromised if a State rather than the United Nations had to protect him (Quote from: Thomas M. Franck, "Nation against Nation", New York, 1985, p. 99).

2/ See, for example, resolution 837 (1993), adopted by the Security Council at its 3229th meeting on 6 June 1993.

3/ See "Report on Security of UN Staff in the Field", compiled from a report of the UNDP/UNFPA Staff Council Working Group as modified by the Standing Committee on Occupational Health and Safety of the Federation of International Civil Servants Associations (FICSA).

4/ A/48/1, p. 165; see also A/48/349.

5/ "Secretariat News", May-June 1993, "Deadly tasks forcing UN to boost security", pp. 4-6.

6/ See, in this context, the Charter of the United Nations, Art. 100; General Assembly resolution 45/239 A; and Administrative Tribunal Judgement No. 482: Qui, Zhou and Yao (1990).

Appendix I

STAFF MEMBERS CURRENTLY MISSING OR DETAINED
AS OF 1 OCTOBER 1993

Location	Name	Agency	Date
Afghanistan	Daulat Mir	FAO	28.08.84
	Saleem Hairan	FAO	27.01.88
	Mohammed Omar	FAO	17.05.89
China	Yue Jiang	IAEA	02.09.89
Croatia	Simo Zjalic	UNOV	01.09.93
Ethiopia	Kassu Asgedonh	WFP	04.09.91
	Andualem Zeleke	ECA	25.06.93
Israeli authorities in the Gaza Strip	Abdalla Ismail Abu Shawareb	UNRWA	06.11.90
	Ghassan Musued El Arabid	UNRWA	11.08.91
	Mohammad Rajab El Sa'afin	UNRWA	20.07.92
	A/Fattah Ismail Fayyad	UNRWA	22.09.92
	Mohammed Mohammed Najib Madi	UNRWA	15.10.92
	Bassam Mohammad Musa	UNRWA	26.01.93
	Zaher Ismail Ahmad	UNRWA	26.01.93
	Hasan Hassan Abu Jray	UNRWA	14.02.93
	Yasin Musallam Abu Hatab	UNRWA	17.02.93
	Maher Salim El Toukhi	UNRWA	18.02.93
	As'ad Yousef As'ad Acad	UNRWA	18.02.93
	Ibrahim Mohammed Madi	UNRWA	18.02.93
	Sulimam A/Hadi Abu Rous	UNRWA	14.03.93
	Sami Abdalla Abu Hmaiseh	UNRWA	11.04.93
	Yousef Dawoud Shahin	UNRWA	02.05.93
	Ahmad Hassan bu Houli	UNRWA	03.05.93
	Abdel Hakim A/Rabbu Abu Houli	UNRWA	06.05.93
	Fawzi Mohammed Abu Armaneh	UNRWA	11.05.93
	Mohammed A/Rahman Ali	UNRWA	01.06.93
	Mahmoud Arafat El Khawaja	UNRWA	14.06.93
	Mahmoud Ghanem	UNRWA	25.06.93
	Jamal Atiya Tayeh	UNRWA	28.06.93
	Mohmoud Ahmad Abu Zayeda	UNRWA	12.07.93
	Khalid Manna	UNRWA	12.07.93
	Khader A/Rahman Jibril	UNRWA	28.07.93
	Abdul Rahman El Qutshan	UNRWA	28.07.93
	Ibrahim Abdulla Abu Iyada	UNRWA	29.07.93
	Walid Yusuf El Zatma	UNRWA	09.08.93
	Sadi Orinawi	UNRWA	11.08.93
	Ahmad Said Ahmad Lubbad	UNRWA	19.08.93
	Ammar El Draini	UNRWA	24.08.93
	Rafiq Khalil Abu Subu	UNRWA	25.08.93
	Ahmad Abdulla Mahmoud	UNRWA	28.08.93
	Mohammad Ahmad El Haamri	UNRWA	20.08.93

Location	Name	Agency	Date
Israeli authorities in the West Bank	Hasan Mohammad Hammad	UNRWA	15.02.93
	Mohammad Sameh Massad	UNRWA	29.04.93
	Jaber Ali Wahdan	UNRWA	03.05.93
	Suhaila Nayef Jarrar	UNRWA	04.07.93
	Adam Mohammad Al Baraqa	UNRWA	13.09.93
Jordan	Abdallah A/Karim Sarabteh	UNRWA	02.07.93
Lebanon - militias/unknown	Mohammad Ali Sabah	UNRWA	22.03.83
	Mahmoud Hussein Ahmad	UNRWA	22.03.83
	Alec Collett	UNRWA	25.03.85
	Mohammad Mustafa El Haji Ali	UNRWA	28.11.86
Pakistan	Wadood Abdul Fattah	WFP	03.09.89
Somalia	Zainab Aw Jama Adan	WFP	04.08.88
	Ahmad Mohamed Ali	WFP	25.05.90
Syrian Arab Republic	Abdalah Daker Hayatli	UNRWA	20.04.80
	Izzedine Hussein Abu Kreish	UNRWA	11.09.80
	Asia Salim Yousef	UNRWA	08.05.93
	Abdul Naser Fourani	UNRWA	19.05.93
	Ziad Abu Rafia	UNRWA	25.07.93

Appendix II

STAFF MEMBERS KILLED OR DECEASED

1 October 1992-30 September 1993

LOCATION	NAME	AGENCY	NATIONALITY	DATE	REMARKS
Afghanistan	Mr. Abdul Hadi	UNHCR	Afghanistan	01.02.93	Convoy on way to Jalalabad ambushed by 3 armed men
	Mr. Anthony Bullard	UNCHS	United Kingdom	01.02.93	Convoy on way to Jalalabad ambushed by 3 armed men
	Mr. Zia Ul Haq	UNCHS	Afghanistan	01.02.93	Convoy on way to Jalalabad ambushed by 3 armed men
Angola	Mr. Pedro Shivinda	WFP	Angola	24.02.93	Acting base manager in Huambo. WFP offices completely destroyed
	Mr. Silva Cnicambi	WFP	Angola	11.04.93	Security guard died when mortar fell in front of office
Bosnia and Herzegovina	Mr. Boris Zeravcic	UNHCR	Bosnia and Herzegovina	14.08.93	Shot by sniper while driving a clearly marked United Nations vehicle in Bosnia and Herzegovina
Cambodia	Ms. Ty Sary	UNTAC	Cambodia	12.01.93	Killed in attack on registration team near Siem Reap
	Ms. Vicheth Hang	UNTAC	Cambodia	12.01.93	Killed in attack on registration team near Siem Reap
	Mr. Mohammad Abdur Rouf	UNTAC	Bangladesh	29.03.93	Killed at CPAF checkpoint when driver allegedly failed to stop
	Mr. Sophorn Choun	UNTAC	Cambodia	03.04.93	
	Mr. Khhough Ngin	UNTAC	Cambodia	07.04.93	
	Mr. Sok Phiep Lay	UNTAC	Cambodia	08.04.93	Shot by assailants unknown and died during surgery
	Mr. Atsuhiko Nakata	UNTAC/UNV	Japan	08.04.93	United Nations volunteer district electoral worker shot by assailants unknown
	Mr. Phim Shoka	UNTAC	Cambodia	12.05.93	
India	Mr. Y. S. Rao	FAO	India	12.03.93	
Israeli authorities in Gaza Strip	Mr. Awad Ali Suradi	UNRWA	Palestinian	23.02.93	United Nations nurse killed by Israeli troop fire while helping wounded
	Mr. Yousif Ibrahim Al Gharib	UNRWA	Palestinian	18.03.93	Teacher killed by Israeli fire near "wake house" in Rafah camp
Kenya	Mr. Michael Reitzel-Nielsen	UNEP	Denmark	12.09.93	Killed by gunmen who attempted to hijack his car
Lebanon	Mr. Fayyad Farhad	UNRWA	Palestinian	21.07.93	Killed in Saida, Lebanon
Somalia	Mr. Sean Devereux	UNICEF	United Kingdom	02.01.93	Shot in southern Somali port of Kismayo